

AMENDED IN ASSEMBLY SEPTEMBER 2, 2005

AMENDED IN ASSEMBLY AUGUST 25, 2005

AMENDED IN ASSEMBLY AUGUST 15, 2005

AMENDED IN ASSEMBLY JUNE 22, 2005

AMENDED IN SENATE APRIL 18, 2005

SENATE BILL

No. 229

Introduced by Senator Figueroa

February 15, 2005

An act to amend Sections 25, 2909, 2911, 2912, 2914, 2920, 2933, 2936, 2942, 2946, 2983, 2987, 2988, 3751, 4980.03, 4980.40, 4980.43, 4982.05, 4982.26, 4986.71, 4990.1, 4990.8, 4992.31, 4992.33, 5079, 8000, 8005, 8010, 8025, 8030.2, 8030.4, 8030.6, 8030.8, 8520, 8528, and 22253.2 of, to add Section 5054 to, and to repeal Section 2945 of, the Business and Professions Code, and to amend Section 19167 of the Revenue and Taxation Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 229, as amended, Figueroa. Professions and vocations.

(1) Existing law provides for the Board of Psychology to license and regulate psychologists. Under existing law, certain provisions relating to the board become inoperative on July 1, 2006, and are to be repealed on January 1, 2007.

This bill would extend those dates to July 1, ~~2011~~ 2008, and January 1, ~~2012~~ 2009, respectively.

(2) Existing law specifies the requirements for licensing as a psychologist, including educational and training requirements. Existing law exempts from licensing persons who meet certain criteria

and who register with the board for up to 2 years from the date of registration. Existing law provides for the Board of Psychology to examine applicants by written or oral examination.

This bill would provide that those exempt persons shall be identified as “registered psychologists” and would extend the period of the exemption to up to 30 months. The bill would also delete the authorization for an oral examination, and would instead provide for a computer-assisted examination. The bill would make various other revisions to these and other related provisions.

(3) Existing law imposes various fees on applicants for licensure by the Board of Psychology and on licensees. Existing law provides that a licensee in ill health or absent from the state may apply for inactive status at a reduced rate.

This bill would also authorize a licensee in retirement to be placed on inactive status.

(4) Existing law authorizes a psychologist licensed by another state or foreign country to practice in this state for up to 30 days in a calendar year.

This bill would limit that authorization to a psychologist at the doctoral level licensed by another state or Canada.

(5) Existing law provides for the licensing and regulation of respiratory care practitioners by the Respiratory Care Board of California. Existing law establishes a process by which a licensee whose license has been revoked or suspended or who is on probation may petition the board for reinstatement.

This bill would apply the same process in the case of a licensee who has surrendered his or her license. The bill would require certain processing fees to be paid with regard to a petition for reinstatement. The bill would also make other related changes.

(6) Existing law provides for licensing and regulation of marriage and family therapists by the Board of Behavioral Scientists. Existing law requires an applicant for the marriage and family therapist examination to complete 3000 hours of supervised experience, with limits on the amount of experience that may be earned in certain areas of emphasis, and subject to a 1500-hour limitation imposed on experience hours earned prior to award of a degree.

This bill would impose a 1300-hour limitation—~~imposed~~ on experience hours earned prior to award of a degree and would make various revisions to the requirements for supervised experience. The bill would also make other related changes.

(7) Existing law provides for licensing and regulation of accountants by the California Board of Accountancy.

This bill would authorize a licensed accountant from another state to prepare individual or estate tax returns for persons who are or were California residents under limited circumstances.

(8) Existing law provides that public accountancy firms may have owners who are not licensed as accountants under certain conditions. Existing law generally prohibits a person from becoming or remaining a nonlicensee owner if the person has been convicted of certain crimes involving dishonesty or fraud or in the event of certain disciplinary action, and requires reporting by a nonlicensee owner to the board in that regard.

This bill would require a California nonlicensee owner of a public accounting firm to report to the board within 30 days of the opening or initiation of a formal investigation of the nonlicensee by the Securities and Exchange Commission, the Public Company Accounting Oversight Board, or another professional licensing agency. The bill would generally exempt these reports from disclosure pursuant to the California Public Records Act.

(9) Existing law provides for the Board of Behavioral Sciences to license and regulate clinical social workers. Under existing law, certain provisions relating to the board become inoperative on July 1, 2006, and are to be repealed on January 1, 2007.

This bill would extend those dates to July 1, ~~2011~~ 2008, and January 1, ~~2012~~ 2009, respectively.

(10) Existing law provides for the Court Reporters Board of California to license and regulate certified shorthand reporters. Under existing law, certain provisions relating to the board become inoperative on July 1, 2006, and are to be repealed on January 1, 2007.

This bill would extend those dates to July 1, ~~2011~~ 2008, and January 1, ~~2012~~ 2009, respectively.

(11) Existing law prohibits the disclosure of certain information regarding complaints relative to a licensee of the Court Reporters Board of California unless an accusation has been filed. These provisions do not apply to citations, fines, or orders of abatement, which may be disclosed to the public.

This bill would also allow letters of reprimand relative to a licensee to be disclosed to the public.

(12) Existing law provides for licensing and regulation of structural pest control operators by the Structural Pest Control Board. Under

existing law, certain provisions relating to the board become inoperative on July 1, 2006, and are to be repealed on January 1, 2007.

This bill would extend those dates to July 1, 2011, and January 1, 2012, respectively.

(13) Existing law requires a tax preparer, as defined, to register with the California Tax Education Council. Existing law requires the Franchise Tax Board to notify the council when the board identifies a tax preparer that has not registered as required, and authorizes the board to cite individuals for these violations, levy a fine of up to \$5,000 against the individual, or issue a cease and desist order against the individual until he or she has registered as required. Existing law authorizes the imposition of penalties against tax preparers who fail to furnish copies of taxpayer returns, who fail to furnish an identifying number, or who fail to retain specified documents.

This bill would recast these provisions to instead require the council, after receiving notification from the board regarding a violation of the registration requirements, to notify the Attorney General, a district attorney, or a city attorney, who would be authorized ~~by the bill~~ to cite individuals for these violations, levy a fine of up to \$5,000 against the violator, or issue a cease and desist order against the violator until he or she has registered as required. This bill would also authorize the board to impose penalties against a tax preparer that fails to register with the council, but only after the board receives moneys for any costs incurred in the imposition of these penalties.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25 of the Business and Professions
2 Code is amended to read:
3 25. Any person applying for a license, registration, or the first
4 renewal of a license, after the effective date of this section, as a
5 licensed marriage and family therapist, a licensed clinical social
6 worker or as a licensed psychologist shall, in addition to any
7 other requirements, show by evidence satisfactory to the agency
8 regulating the business or profession, that he or she has
9 completed training in human sexuality as a condition of
10 licensure. The training shall be creditable toward continuing

1 education requirements as deemed appropriate by the agency
2 regulating the business or profession, and the course shall not
3 exceed more than 50 contact hours.

4 The Board of Psychology shall exempt any persons whose field
5 of practice is such that they are not likely to have use for this
6 training.

7 “Human sexuality” as used in this section means the study of a
8 human being as a sexual being and how he or she functions with
9 respect thereto.

10 The content and length of the training shall be determined by
11 the administrative agency regulating the business or profession
12 and the agency shall proceed immediately upon the effective date
13 of this section to determine what training, and the quality of staff
14 to provide the training, is available and shall report its
15 determination to the Legislature on or before July 1, 1977.

16 In the event that any licensing board or agency proposes to
17 establish a training program in human sexuality, the board or
18 agency shall first consult with other licensing boards or agencies
19 which have established or propose to establish a training program
20 in human sexuality to ensure that the programs are compatible in
21 scope and content.

22 SEC. 2. Section 2909 of the Business and Professions Code is
23 amended to read:

24 2909. Nothing in this chapter shall be construed as restricting
25 or preventing activities of a psychological nature or the use of the
26 official title of the position for which they were employed on the
27 part of the following persons, provided those persons are
28 performing those activities as part of the duties for which they
29 were employed, are performing those activities solely within the
30 confines of or under the jurisdiction of the organization in which
31 they are employed and do not offer to render or render
32 psychological services as defined in Section 2903 to the public
33 for a fee, monetary or otherwise, over and above the salary they
34 receive for the performance of their official duties with the
35 organization in which they are employed:

36 (a) Persons who hold a valid and current credential as a school
37 psychologist issued by the California Department of Education.

38 (b) Persons who hold a valid and current credential as a
39 psychometrist issued by the California Department of Education.

(c) Persons employed in positions as psychologists or psychological assistants, or in a student counseling service, by accredited or approved colleges, junior colleges or universities; federal, state, county or municipal governmental organizations which are not primarily involved in the provision of direct health or mental health services. However, those persons may, without obtaining a license under this act, consult or disseminate their research findings and scientific information to other such accredited or approved academic institutions or governmental agencies. They may also offer lectures to the public for a fee, monetary or otherwise, without being licensed under this chapter.

(d) Persons who meet the educational requirements of subdivision (b) of Section 2914 and who have one year or more of the supervised professional experience referenced in subdivision (c) of Section 2914, if they are employed by nonprofit community agencies that receive a minimum of 25 percent of their financial support from any federal, state, county, or municipal governmental organizations for the purpose of training and providing services. Those persons shall be registered by the agency with the board at the time of employment and shall be identified in the setting as a “registered psychologist.” Those persons shall be exempt from this chapter for a maximum period of 30 months from the date of registration.

SEC. 3. Section 2911 of the Business and Professions Code is amended to read:

2911. Nothing in this chapter shall be construed as restricting the activities and services of a graduate student or psychological intern in psychology pursuing a course of study leading to a graduate degree in psychology at an accredited or approved college or university and working in a training program, or a postdoctoral trainee working in a postdoctoral placement overseen by the American Psychological Association (APA), the Association of Psychology Postdoctoral and Internship Centers (APPIC), or the California Psychology Internship Council (CAPIC), provided that these activities and services constitute a part of his or her supervised course of study and that those persons are designated by ~~such title as~~ *the title* “psychological intern,” “psychological trainee,” “post doctoral intern,” or ~~other~~ *another* title clearly indicating the training status appropriate to his or her level of training. The aforementioned terms shall be

1 reserved for persons enrolled in the doctoral program leading to
2 one of the degrees listed in subdivision (b) of Section 2914 at an
3 accredited or approved college or university or in a formal post
4 doctoral internship overseen by APA, APPIC, or CAPIC.

5 SEC. 4. Section 2912 of the Business and Professions Code is
6 amended to read:

7 2912. Nothing in this chapter shall be construed to restrict or
8 prevent a person who is licensed as a psychologist at the doctoral
9 level in another state or territory of the United States or in
10 Canada from offering psychological services in this state for a
11 period not to exceed 30 days in any calendar year.

12 SEC. 5. Section 2914 of the Business and Professions Code is
13 amended to read:

14 2914. Each applicant for licensure shall comply with all of
15 the following requirements:

- 16 (a) Is not subject to denial of licensure under Division 1.5.
17 (b) Possess an earned doctorate degree (1) in psychology, (2)
18 in educational psychology, or (3) in education with the field of
19 specialization in counseling psychology or educational
20 psychology. Except as provided in subdivision (g), this degree or
21 training shall be obtained from an accredited university, college,
22 or professional school. The board shall make the final
23 determination as to whether a degree meets the requirements of
24 this section.

25 No educational institution shall be denied recognition as an
26 accredited academic institution solely because its program is not
27 accredited by any professional organization of psychologists, and
28 nothing in this chapter or in the administration of this chapter
29 shall require the registration with the board by educational
30 institutions of their departments of psychology or their doctoral
31 programs in psychology.

32 An applicant for licensure trained in an educational institution
33 outside the United States or Canada shall demonstrate to the
34 satisfaction of the board that he or she possesses a doctorate
35 degree in psychology that is equivalent to a degree earned from a
36 regionally accredited university in the United States or Canada.
37 These applicants shall provide the board with a comprehensive
38 evaluation of the degree performed by a foreign credential
39 evaluation service that is a member of the National Association

1 of Credential Evaluation Services (NACES), and any other
2 documentation the board deems necessary.

3 (c) Have engaged for at least two years in supervised
4 professional experience under the direction of a licensed
5 psychologist, the specific requirements of which shall be defined
6 by the board in its regulations, or under suitable alternative
7 supervision as determined by the board in regulations duly
8 adopted under this chapter, at least one year of which shall be
9 after being awarded the doctorate in psychology. If the
10 supervising licensed psychologist fails to provide verification to
11 the board of the experience required by this subdivision within
12 30 days after being so requested by the applicant, the applicant
13 may provide written verification directly to the board.

14 If the applicant sends verification directly to the board, the
15 applicant shall file with the board a declaration of proof of
16 service, under penalty of perjury, of the request for verification.
17 A copy of the completed verification forms shall be provided to
18 the supervising psychologist and the applicant shall prove to the
19 board that a copy has been sent to the supervising psychologist
20 by filing a declaration of proof of service under penalty of
21 perjury, and shall file this declaration with the board when the
22 verification forms are submitted.

23 Upon receipt by the board of the applicant's verification and
24 declarations, a rebuttable presumption affecting the burden of
25 producing evidence is created that the supervised, professional
26 experience requirements of this subdivision have been satisfied.
27 The supervising psychologist shall have 20 days from the day the
28 board receives the verification and declaration to file a rebuttal
29 with the board.

30 The authority provided by this subdivision for an applicant to
31 file written verification directly shall apply only to an applicant
32 who has acquired the experience required by this subdivision in
33 the United States.

34 The board shall establish qualifications by regulation for
35 supervising psychologists and shall review and approve
36 applicants for this position on a case-by-case basis.

37 (d) Take and pass the examination required by Section 2941
38 unless otherwise exempted by the board under this chapter.

39 (e) Show by evidence satisfactory to the board that he or she
40 has completed training in the detection and treatment of alcohol

1 and other chemical substance dependency. This requirement
2 applies only to applicants who matriculate on or after September
3 1, 1985.

4 (f) (1) Show by evidence satisfactory to the board that he or
5 she has completed coursework in spousal or partner abuse
6 assessment, detection, and intervention. This requirement applies
7 to applicants who began graduate training during the period
8 commencing on January 1, 1995, and ending on December 31,
9 2003.

10 (2) An applicant who began graduate training on or after
11 January 1, 2004, shall show by evidence satisfactory to the board
12 that he or she has completed a minimum of 15 contact hours of
13 coursework in spousal or partner abuse assessment, detection,
14 and intervention strategies, including knowledge of community
15 resources, cultural factors, and same gender abuse dynamics. An
16 applicant may request an exemption from this requirement if he
17 or she intends to practice in an area that does not include the
18 direct provision of mental health services.

19 (3) Coursework required under this subdivision may be
20 satisfactory if taken either in fulfillment of other educational
21 requirements for licensure or in a separate course. This
22 requirement for coursework shall be satisfied by, and the board
23 shall accept in satisfaction of the requirement, a certification
24 from the chief academic officer of the educational institution
25 from which the applicant graduated that the required coursework
26 is included within the institution's required curriculum for
27 graduation.

28 (g) An applicant holding a doctoral degree in psychology from
29 an approved institution is deemed to meet the requirements of
30 this section if all of the following are true:

31 (1) The approved institution offered a doctoral degree in
32 psychology designed to prepare students for a license to practice
33 psychology and was approved by the Bureau for Private
34 Postsecondary and Vocational Education on or before July 1,
35 1999.

36 (2) The approved institution has not, since July 1, 1999, had a
37 new location, as described in Section 94721 of the Education
38 Code.

39 (3) The approved institution is not a franchise institution, as
40 defined in Section 94729.3 of the Education Code.

1 SEC. 6. Section 2920 of the Business and Professions Code is
2 amended to read:

3 2920. The Board of Psychology shall enforce and administer
4 this chapter. The board shall consist of nine members, four of
5 whom shall be public members.

6 This section shall become inoperative on July 1, ~~2011~~ 2008,
7 and, as of January 1, ~~2012~~ 2009, is repealed, unless a later
8 enacted statute, which becomes effective on or before January 1,
9 2012 2009, deletes or extends the dates on which it becomes
10 inoperative and is repealed.

11 SEC. 7. Section 2933 of the Business and Professions Code is
12 amended to read:

13 2933. Except as provided by Section 159.5, the board shall
14 employ and shall make available to the board within the limits of
15 the funds received by the board all personnel necessary to carry
16 out this chapter. The board may employ, exempt from the State
17 Civil Service Act, an executive officer to the Board of
18 Psychology. The board shall make all expenditures to carry out
19 this chapter. The board may accept contributions to effectuate the
20 purposes of this chapter.

21 This section shall become inoperative on July 1, ~~2011~~ 2008,
22 and, as of January 1, ~~2012~~ 2009, is repealed, unless a later
23 enacted statute, which becomes effective on or before January 1,
24 2012 2009, deletes or extends the dates on which it becomes
25 inoperative and is repealed.

26 SEC. 8. Section 2936 of the Business and Professions Code is
27 amended to read:

28 2936. The board shall adopt a program of consumer and
29 professional education in matters relevant to the ethical practice
30 of psychology. The board shall establish as its standards of
31 ethical conduct relating to the practice of psychology, the
32 “Ethical Principles and Code of Conduct” published by the
33 American Psychological Association (APA). Those standards
34 shall be applied by the board as the accepted standard of care in
35 all licensing examination development and in all board
36 enforcement policies and disciplinary case evaluations.

37 To facilitate consumers in receiving appropriate psychological
38 services, all licensees and registrants shall be required to post, in
39 a conspicuous location in their principal psychological business
40 office, a notice which reads as follows:

1 “NOTICE TO CONSUMERS: The Department of Consumer
2 Affair’s Board of Psychology receives and responds to
3 questions and complaints regarding the practice of psychology.
4 If you have questions or complaints, you may contact the board
5 on the Internet at www.psychboard.ca.gov, by calling
6 1-866-503-3221, or by writing to the following address:

7 Board of Psychology
8 1422 Howe Avenue, Suite 22
9 Sacramento, California 95825-3236”

10 SEC. 9. Section 2942 of the Business and Professions Code is
11 amended to read:

12 2942. The board may examine by written or
13 computer-assisted examination or by both. All aspects of the
14 examination shall be in compliance with Section 139. The
15 examination shall be available for administration at least twice a
16 year at the time and place and under supervision as the board
17 may determine. The passing grades for the examinations shall be
18 established by the board in regulations and shall be based on
19 psychometrically sound principles of establishing minimum
20 qualifications and levels of competency.

21 Examinations for a psychologist’s license may be conducted by
22 the board under a uniform examination system, and for that
23 purpose the board may make arrangements with organizations
24 furnishing examination material as may in its discretion be
25 desirable.

26 SEC. 10. Section 2945 of the Business and Professions Code
27 is repealed.

28 SEC. 11. Section 2946 of the Business and Professions Code
29 is amended to read:

30 2946. The board shall grant a license to any person who
31 passes the board’s supplemental licensing examination and, at the
32 time of application, has been licensed for at least five years by a
33 psychology licensing authority in another state or Canadian
34 province if the requirements for obtaining a certificate or license
35 in that state or province were substantially equivalent to the
36 requirements of this chapter.

37 A psychologist certified or licensed in another state or province
38 and who has made application to the board for a license in this
39 state may perform activities and services of a psychological
40 nature without a valid license for a period not to exceed 180

1 calendar days from the time of submitting his or her application
2 or from the commencement of residency in this state, whichever
3 first occurs.

4 The board at its discretion may waive the examinations, when
5 in the judgment of the board the applicant has already
6 demonstrated competence in areas covered by the examinations.
7 The board at its discretion may waive the examinations for
8 diplomates of the American Board of Professional Psychology.

9 SEC. 12. Section 2983 of the Business and Professions Code
10 is amended to read:

11 2983. Every person to whom a license is issued shall, as a
12 condition precedent to its issuance, and in addition to any
13 application, examination or other fee, pay the prescribed initial
14 license fee.

15 SEC. 13. Section 2987 of the Business and Professions Code
16 is amended to read:

17 2987. The amount of the fees prescribed by this chapter shall
18 be determined by the board, and shall be as follows:

19 (a) The application fee for a psychologist shall not be more
20 than fifty dollars (\$50).

21 (b) The examination and reexamination fees for the
22 examinations shall be the actual cost to the board of developing,
23 purchasing, and grading of each examination, plus the actual cost
24 to the board of administering each examination.

25 (c) The initial license fee is an amount equal to the renewal fee
26 in effect on the last regular renewal date before the date on which
27 the license is issued.

28 (d) The biennial renewal fee for a psychologist shall be four
29 hundred dollars (\$400). The board may increase the renewal fee
30 to an amount not to exceed five hundred dollars (\$500).

31 (e) The application fee for registration and supervision of a
32 psychological assistant by a supervisor under Section 2913,
33 which is payable by that supervisor, shall not be more than
34 seventy-five dollars (\$75).

35 (f) The annual renewal fee for registration of a psychological
36 assistant shall not be more than seventy-five dollars (\$75).

37 (g) The duplicate license or registration fee is five dollars (\$5).

38 (h) The delinquency fee is twenty-five dollars (\$25).

39 (i) The endorsement fee is five dollars (\$5).

1 Notwithstanding any other provision of law, the board may
2 reduce any fee prescribed by this section, when, in its discretion,
3 the board deems it administratively appropriate.

4 SEC. 14. Section 2988 of the Business and Professions Code
5 is amended to read:

6 2988. A licensed psychologist who for reasons, including, but
7 not limited to, retirement, ill health, or absence from the state, is
8 not engaged in the practice of psychology, may apply to the
9 board to request that his or her license be placed on an inactive
10 status. A licensed psychologist who holds an inactive license
11 shall pay a biennial renewal fee, fixed by the board, of no more
12 than forty dollars (\$40). A psychologist holding an inactive
13 license shall be exempt from continuing education requirements
14 specified in Section 2915, but shall otherwise be subject to this
15 chapter and shall not engage in the practice of psychology in this
16 state. Licensees on inactive status who have not committed any
17 acts or crimes constituting grounds for denial of licensure and
18 have completed the continuing education requirements specified
19 in Section 2915 may, upon their request have their license to
20 practice psychology placed on active status.

21 SEC. 15. Section 3751 of the Business and Professions Code
22 is amended to read:

23 3751. (a) A person whose license has been revoked,
24 surrendered, or suspended, or placed on probation, may petition
25 the board for reinstatement, modification, or termination of
26 probation, provided the person has paid all outstanding fees,
27 fines, and cost recovery; in full, and monthly probation
28 monitoring payments are current.

29 (b) A person petitioning for reinstatement of his or her license
30 that has been revoked or surrendered for three or more years shall
31 also meet the current education requirements required for initial
32 licensure.

33 (c) A petition may be filed only after a period of time has
34 elapsed, but not less than the following minimum periods from
35 the effective date of the decision ordering that disciplinary
36 action:

37 (1) At least three years for reinstatement of a license that has
38 been revoked or surrendered.

39 (2) At least two years for early termination of probation of
40 three years or more.

1 (3) At least one year for modification of a condition, or
2 reinstatement of a license revoked or surrendered for mental or
3 physical illness, or termination of probation of less than three
4 years.

5 (d) The petition shall state any facts as may be required by the
6 board. The petition shall be accompanied by at least two verified
7 recommendations from licensed health care practitioners who
8 have personal knowledge of the professional activities of the
9 petitioner since the disciplinary penalty was imposed. The board
10 may accept or reject the petition.

11 (e) Written or oral argument may be provided by the
12 petitioner; ~~or~~ or, at the request of the board, by the Attorney
13 General. Unless the board or the petitioner requests the
14 presentation of oral argument, the petition shall be considered
15 and voted upon by mail. If the petitioner or the board requests the
16 opportunity for oral argument, the petition shall be heard by the
17 board; or the board may assign the petition to an administrative
18 law judge.

19 (f) Consideration shall be given to all activities of the
20 petitioner since the disciplinary action was taken, the offense for
21 which the petitioner was disciplined, the petitioner's activities
22 during the time the license was in good standing, and the
23 petitioner's rehabilitative efforts, general reputation for truth, and
24 professional ability.

25 (g) The board may deny the petition for reinstatement,
26 reinstate the license without terms and conditions, require an
27 examination for the reinstatement, restoration, or modification of
28 probation, or reinstate the license with terms and conditions as it
29 deems necessary. Where a petition is heard by an administrative
30 law judge, the administrative law judge shall render a proposed
31 decision to the board denying the petition for reinstatement,
32 reinstating the license without terms and conditions, requiring an
33 examination for the reinstatement, or reinstating the license with
34 terms and conditions as he or she deems necessary. The board
35 may take any action with respect to the proposed decision and
36 petition as it deems appropriate.

37 (h) No petition shall be considered under either of the
38 following circumstances:

1 (1) If the petitioner is under sentence for any criminal offense
2 including any period during which the petitioner is on
3 court-imposed probation or parole.

4 (2) If an accusation or a petition to revoke probation is
5 pending against the person.

6 (i) The board may deny without a hearing or argument any
7 petition filed pursuant to this section within a period of three
8 years from the effective date of the prior decision.

9 (j) Petitions for reinstatement shall include a processing fee
10 equal to fees charged pursuant to subdivisions (a) and (h) of
11 Section 3775. In addition, petitions for reinstatement that are
12 granted shall include a fee equal to the fee charged pursuant to
13 subdivision (d) of Section 3775, before the license may be
14 reinstated.

15 (k) Nothing in this section shall be deemed to alter Sections
16 822 and 823.

17 SEC. 16. Section 4980.03 of the Business and Professions
18 Code is amended to read:

19 4980.03. (a) “Board,” as used in this chapter, means the
20 Board of Behavioral Sciences.

21 (b) “Intern,” as used in this chapter, means an unlicensed
22 person who has earned his or her master’s or doctor’s degree
23 qualifying him or her for licensure and is registered with the
24 board.

25 (c) “Trainee,” as used in this chapter, means an unlicensed
26 person who is currently enrolled in a master’s or doctor’s degree
27 program, as specified in Section 4980.40, that is designed to
28 qualify him or her for licensure under this chapter, and who has
29 completed no less than 12 semester units or 18 quarter units of
30 coursework in any qualifying degree program.

31 (d) “Applicant,” as used in this chapter, means an unlicensed
32 person who has completed a ~~masters~~ master’s or doctoral degree
33 program, as specified in Section 4980.40, and whose application
34 for registration as an intern is pending, or an unlicensed person
35 who has completed the requirements for licensure as specified in
36 this chapter, is no longer registered with the board as an intern,
37 and is currently in the examination process.

38 (e) “Advertise,” as used in this chapter, includes, but is not
39 limited to, the issuance of any card, sign, or device to any person,
40 or the causing, permitting, or allowing of any sign or marking on,

1 or in, any building or structure, or in any newspaper or magazine
2 or in any directory, or any printed matter whatsoever, with or
3 without any limiting qualification. It also includes business
4 solicitations communicated by radio or television broadcasting.
5 Signs within church buildings or notices in church bulletins
6 mailed to a congregation shall not be construed as advertising
7 within the meaning of this chapter.

8 (f) ~~“Experience”~~ *“Experience,”* as used in this chapter, means
9 experience in interpersonal relationships, psychotherapy,
10 marriage and family therapy, and professional enrichment
11 activities that satisfies the requirement for licensure as a marriage
12 and family therapist pursuant to Section 4980.40.

13 (g) ~~“Supervisor”~~ *“Supervisor,”* as used in this chapter, means
14 an individual who meets all of the following requirements:

15 (1) Has been licensed for at least two years as a marriage and
16 family therapist, licensed clinical social worker, licensed
17 psychologist, or licensed physician certified in psychiatry by the
18 American Board of Psychiatry and Neurology.

19 (2) Has not provided therapeutic services to the trainee or
20 intern.

21 (3) Has been licensed or certified for at least two years prior to
22 acting as a supervisor.

23 (4) Has a current and valid license that is not under suspension
24 or probation.

25 (5) Complies with supervision requirements established by
26 board regulations.

27 (h) ~~“Professional enrichment activities” as used in this chapter~~
28 ~~includes activities,” as used in this chapter, include~~ both of the
29 following:

30 (1) Workshops, seminars, training sessions, or conferences
31 directly related to marriage and family therapy attended by the
32 applicant that are approved by the applicant’s supervisor.

33 (2) Participation by the applicant in group, marital or conjoint,
34 family, or individual psychotherapy by an appropriately licensed
35 professional.

36 SEC. 17. Section 4980.40 of the Business and Professions
37 Code is amended to read:

38 4980.40. To qualify for a license, an applicant shall have all
39 the following qualifications:

(a) Applicants shall possess a doctor's or master's degree in marriage, family, and child counseling, marital and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy, obtained from a school, college, or university accredited by the Western Association of Schools and Colleges, or approved by the Bureau for Private Postsecondary and Vocational Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval. In order to qualify for licensure pursuant to this subdivision, a doctor's or master's degree program shall be a single, integrated program primarily designed to train marriage and family therapists and shall contain no less than 48 semester or 72 quarter units of instruction. The instruction shall include no less than 12 semester units or 18 quarter units of coursework in the areas of marriage, family, and child counseling, and marital and family systems approaches to treatment.

The coursework shall include all of the following areas:

(1) The salient theories of a variety of psychotherapeutic orientations directly related to marriage and family therapy, and marital and family systems approaches to treatment.

(2) Theories of marriage and family therapy and how they can be utilized in order to intervene therapeutically with couples, families, adults, children, and groups.

(3) Developmental issues and life events from infancy to old age and their effect upon individuals, couples, and family relationships. This may include coursework that focuses on specific family life events and the psychological, psychotherapeutic, and health implications that arise within couples and families, including, but not limited to, childbirth, child rearing, childhood, adolescence, adulthood, marriage, divorce, blended families, stepparenting, and geropsychology.

(4) A variety of approaches to the treatment of children.

The board shall, by regulation, set forth the subjects of instruction required in this subdivision.

(b) (1) In addition to the 12 semester or 18 quarter units of coursework specified above, the doctor's or master's degree program shall contain not less than six semester or nine quarter

1 units of supervised practicum in applied psychotherapeutic
2 techniques, assessment, diagnosis, prognosis, and treatment of
3 premarital, couple, family, and child relationships, including
4 dysfunctions, healthy functioning, health promotion, and illness
5 prevention, in a supervised clinical placement that provides
6 supervised fieldwork experience within the scope of practice of a
7 marriage and family therapist.

8 (2) For applicants who enrolled in a degree program on or
9 after January 1, 1995, the practicum shall include a minimum of
10 150 hours of face-to-face experience counseling individuals,
11 couples, families, or groups.

12 (3) The practicum hours shall be considered as part of the 48
13 semester or 72 quarter unit requirement.

14 (c) As an alternative to meeting the qualifications specified in
15 subdivision (a), the board shall accept as equivalent degrees,
16 those master's or doctor's degrees granted by educational
17 institutions whose degree program is approved by the
18 Commission on Accreditation for Marriage and Family Therapy
19 Education.

20 (d) All applicants shall, in addition, complete the coursework
21 or training specified in Section 4980.41.

22 (e) All applicants shall be at least 18 years of age.

23 (f) All applicants shall have at least two years of experience
24 that meet the requirements of Section 4980.43.

25 (g) The applicant shall pass a board administered written or
26 oral examination or both types of examinations, except that an
27 applicant who passed a written examination and who has not
28 taken and passed an oral examination shall instead be required to
29 take and pass a clinical vignette written examination.

30 (h) The applicant shall not have committed acts or crimes
31 constituting grounds for denial of licensure under Section 480.
32 The board shall not issue a registration or license to any person
33 who has been convicted of a crime in this or another state or in a
34 territory of the United States that involves sexual abuse of
35 children or who is required to register pursuant to Section 290 of
36 the Penal Code or the equivalent in another state or territory.

37 (i) (1) An applicant applying for intern registration who, prior
38 to December 31, 1987, met the qualifications for registration, but
39 who failed to apply or qualify for intern registration may be

1 granted an intern registration if the applicant meets all of the
2 following criteria:

3 (A) The applicant possesses a doctor's or master's degree in
4 marriage, family, and child counseling, marital and family
5 therapy, psychology, clinical psychology, counseling
6 psychology, counseling with an emphasis in marriage, family,
7 and child counseling, or social work with an emphasis in clinical
8 social work obtained from a school, college, or university
9 currently conferring that degree that, at the time the degree was
10 conferred, was accredited by the Western Association of Schools
11 and Colleges, and where the degree conferred was, at the time it
12 was conferred, specifically intended to satisfy the educational
13 requirements for licensure by the Board of Behavioral Sciences.

14 (B) The applicant's degree and the course content of the
15 instruction underlying that degree have been evaluated by the
16 chief academic officer of a school, college, or university
17 accredited by the Western Association of Schools and Colleges
18 to determine the extent to which the applicant's degree program
19 satisfies the current educational requirements for licensure, and
20 the chief academic officer certifies to the board the amount and
21 type of instruction needed to meet the current requirements.

22 (C) The applicant completes a plan of instruction that has been
23 approved by the board at a school, college, or university
24 accredited by the Western Association of Schools and Colleges
25 that the chief academic officer of the educational institution has,
26 pursuant to subparagraph (B), certified will meet the current
27 educational requirements when considered in conjunction with
28 the original degree.

29 (2) A person applying under this subdivision shall be
30 considered a trainee, as that term is defined in Section 4980.03,
31 once he or she is enrolled to complete the additional coursework
32 necessary to meet the current educational requirements for
33 licensure.

34 (j) An applicant for licensure trained in an educational
35 institution outside the United States shall demonstrate to the
36 satisfaction of the board that he or she possesses a qualifying
37 degree that is equivalent to a degree earned from a school,
38 college, or university accredited by the Western Association of
39 Schools and Colleges, or approved by the Bureau of Private
40 Postsecondary and Vocational Education. These applicants shall

1 provide the board with a comprehensive evaluation of the degree
2 performed by a foreign credential evaluation service that is a
3 member of the National Association of Credential Evaluation
4 Services (NACES), and shall provide any other documentation
5 the board deems necessary.

6 ~~SEC. 18. Section 4980.43 of the Business and Professions~~
7 ~~Code is amended to read:~~

8 ~~4980.43. (a) Prior to applying for licensure examinations,~~
9 ~~each applicant shall complete experience that shall comply with~~
10 ~~the following:~~

11 ~~(1) A minimum of 3,000 hours completed during a period of at~~
12 ~~least 104 weeks.~~

13 ~~(2) Not more than 40 hours in any seven consecutive days.~~

14 ~~(3) Not less than 1700 hours of supervised experience~~
15 ~~completed subsequent to the granting of the qualifying master's~~
16 ~~or doctor's degree.~~

17 ~~(4) Not more than 1300 hours of experience obtained prior to~~
18 ~~completing a master's or doctor's degree. This experience shall~~
19 ~~be composed as follows:~~

20 ~~(A) Not more than 750 hours of counseling and direct~~
21 ~~supervisor contact.~~

22 ~~(B) Not more than 250 hours of professional enrichment~~
23 ~~activities excluding personal psychotherapy.~~

24 ~~(C) Not more than 100 hours of personal psychotherapy. The~~
25 ~~applicant shall be credited for three hours of experience for each~~
26 ~~hour of personal psychotherapy.~~

27 ~~(5) No hours of experience may be gained prior to completing~~
28 ~~either 12 semester units or 18 quarter units of graduate~~
29 ~~instruction and becoming a trainee except for personal~~
30 ~~psychotherapy.~~

31 ~~(6) No hours of experience gained more than six years prior to~~
32 ~~the date the application for licensure was filed, except that up to~~
33 ~~500 hours of clinical experience gained in the supervised~~
34 ~~practicum required by subdivision (b) of Section 4980.40 shall be~~
35 ~~exempt from this six-year requirement.~~

36 ~~(7) Not more than 1000 hours of experience for direct~~
37 ~~supervisor contact and professional activities.~~

38 ~~(8) Not more than 500 hours of experience providing group~~
39 ~~therapy or group counseling.~~

1 ~~(9) Not more than 250 hours of experience administering and~~
2 ~~evaluating psychological tests of counselees, writing clinical~~
3 ~~reports, writing progress notes, or writing process notes.~~

4 ~~(10) Not more than 250 hours of experience providing~~
5 ~~counseling or crisis counseling on the telephone.~~

6 ~~(11) Not less than 500 total hours of experience in diagnosing~~
7 ~~and treating couples, families, and children.~~

8 ~~(b) All applicants, trainees, and registrants shall be at all times~~
9 ~~under the supervision of a supervisor who shall be responsible~~
10 ~~for ensuring that the extent, kind, and quality of counseling~~
11 ~~performed is consistent with the training and experience of the~~
12 ~~person being supervised, and who shall be responsible to the~~
13 ~~board for compliance with all laws, rules, and regulations~~
14 ~~governing the practice of marriage and family therapy.~~
15 ~~Supervised experience shall be gained by interns and trainees~~
16 ~~either as an employee or as a volunteer. The requirements of this~~
17 ~~chapter regarding gaining hours of experience and supervision~~
18 ~~are applicable equally to employees and volunteers. Experience~~
19 ~~shall not be gained by interns or trainees as an independent~~
20 ~~contractor.~~

21 ~~(c) Supervision shall include at least one hour of direct~~
22 ~~supervisor contact in each week for which experience is credited~~
23 ~~in each work setting, as specified:~~

24 ~~(1) A trainee shall receive an average of at least one hour of~~
25 ~~direct supervisor contact for every five hours of client contact in~~
26 ~~each setting.~~

27 ~~(2) Each individual supervised after being granted a qualifying~~
28 ~~degree shall receive an average of at least one hour of direct~~
29 ~~supervisor contact for every 10 hours of client contact in each~~
30 ~~setting in which experience is gained.~~

31 ~~(3) For purposes of this section, "one hour of direct supervisor~~
32 ~~contact" means one hour of face-to-face contact on an individual~~
33 ~~basis or two hours of face-to-face contact in a group of not more~~
34 ~~than eight persons.~~

35 ~~(4) All experience gained by a trainee shall be monitored by~~
36 ~~the supervisor as specified by regulation. The 5-to-1 and 10-to-1~~
37 ~~ratios specified in this subdivision shall be applicable to all hours~~
38 ~~gained on or after January 1, 1995.~~

39 ~~(d) (1) A trainee may be credited with supervised experience~~
40 ~~completed in any setting that meets all of the following:~~

1 ~~(A) Lawfully and regularly provides mental health counseling~~
2 ~~or psychotherapy.~~

3 ~~(B) Provides oversight to ensure that the trainee's work at the~~
4 ~~setting meets the experience and supervision requirements set~~
5 ~~forth in this chapter and is within the scope of practice for the~~
6 ~~profession as defined in Section 4980.02.~~

7 ~~(C) Is not a private practice owned by a licensed marriage and~~
8 ~~family therapist, a licensed psychologist, a licensed clinical~~
9 ~~social worker, a licensed physician and surgeon, or a professional~~
10 ~~corporation of any of those licensed professions.~~

11 ~~(2) Experience may be gained by the trainee solely as part of~~
12 ~~the position for which the trainee volunteers or is employed.~~

13 ~~(e) (1) An intern may be credited with supervised experience~~
14 ~~completed in any setting that meets both of the following:~~

15 ~~(A) Lawfully and regularly provides mental health counseling~~
16 ~~or psychotherapy.~~

17 ~~(B) Provides oversight to ensure that the intern's work at the~~
18 ~~setting meets the experience and supervision requirements set~~
19 ~~forth in this chapter and is within the scope of practice for the~~
20 ~~profession as defined in Section 4980.02.~~

21 ~~(2) An applicant shall not be employed or volunteer in a~~
22 ~~private practice, as defined in subparagraph (C) of paragraph (1)~~
23 ~~of subdivision (d), until registered as an intern.~~

24 ~~(3) While an intern may be either a paid employee or a~~
25 ~~volunteer, employers are encouraged to provide fair~~
26 ~~remuneration to interns.~~

27 ~~(4) Except for periods of time during a supervisor's vacation~~
28 ~~or sick leave, an intern who is employed or volunteering in~~
29 ~~private practice shall be under the direct supervision of a licensee~~
30 ~~enumerated in subdivision (f) of Section 4980.40. The~~
31 ~~supervising licensee shall either be employed by and practice at~~
32 ~~the same site as the intern's employer, or shall be an owner or~~
33 ~~shareholder of the private practice. Alternative supervision may~~
34 ~~be arranged during a supervisor's vacation or sick leave if the~~
35 ~~supervision meets the requirements of this section.~~

36 ~~(5) Experience may be gained by the intern solely as part of~~
37 ~~the position for which the intern volunteers or is employed.~~

38 ~~(f) Except as provided in subdivision (g), all persons shall~~
39 ~~register with the board as an intern in order to be credited for~~

1 ~~postdegree hours of supervised experience gained toward~~
2 ~~licensure.~~

3 ~~(g) Except when employed in a private practice setting, all~~
4 ~~postdegree hours of experience shall be credited toward licensure~~
5 ~~so long as the applicant applies for the intern registration within~~
6 ~~90 days of the granting of the qualifying master's or doctor's~~
7 ~~degree and is thereafter granted the intern registration by the~~
8 ~~board.~~

9 ~~(h) Trainees, interns, and applicants shall not receive any~~
10 ~~remuneration from patients or clients, and shall only be paid by~~
11 ~~their employers.~~

12 ~~(i) Trainees, interns, and applicants shall only perform services~~
13 ~~at the place where their employers regularly conduct business,~~
14 ~~which may include performing services at other locations, so~~
15 ~~long as the services are performed under the direction and control~~
16 ~~of their employer and supervisor, and in compliance with the~~
17 ~~laws and regulations pertaining to supervision. Trainees and~~
18 ~~interns shall have no proprietary interest in the employer's~~
19 ~~business.~~

20 ~~(j) Trainees, interns, or applicants who provide volunteered~~
21 ~~services or other services, and who receive no more than a total,~~
22 ~~from all work settings, of five hundred dollars (\$500) per month~~
23 ~~as reimbursement for expenses actually incurred by those~~
24 ~~trainees, interns, or applicants for services rendered in any lawful~~
25 ~~work setting other than a private practice shall be considered an~~
26 ~~employee and not an independent contractor. The board may~~
27 ~~audit applicants who receive reimbursement for expenses, and~~
28 ~~the applicants shall have the burden of demonstrating that the~~
29 ~~payments received were for reimbursement of expenses actually~~
30 ~~incurred.~~

31 ~~(k) Each educational institution preparing applicants for~~
32 ~~licensure pursuant to this chapter shall consider requiring, and~~
33 ~~shall encourage, its students to undergo individual, marital or~~
34 ~~conjoint, family, or group counseling or psychotherapy, as~~
35 ~~appropriate. Each supervisor shall consider, advise, and~~
36 ~~encourage his or her interns and trainees regarding the~~
37 ~~advisability of undertaking individual, marital or conjoint,~~
38 ~~family, or group counseling or psychotherapy, as appropriate.~~
39 ~~Insofar as it is deemed appropriate and is desired by the~~
40 ~~applicant, the educational institution and supervisors are~~

1 encouraged to assist the applicant in locating that counseling or
2 psychotherapy at a reasonable cost.

3 *SEC. 18. Section 4980.43 of the Business and Professions*
4 *Code is amended to read:*

5 4980.43. (a) For all applicants, a minimum of two calendar
6 years of supervised experience is required, which experience
7 shall consist of 3,000 hours obtained over Prior to applying for
8 licensure examinations, each applicant shall complete experience
9 that shall comply with the following:

10 (1) A minimum of 3,000 hours completed during a period of
11 not less than at least 104 weeks.

12 (2) Not more than 40 hours in any seven consecutive days.

13 (3) Not less than ~~1,500~~ 1,700 hours of supervised experience
14 shall be gained completed subsequent to the granting of the
15 qualifying master's or doctor's degree. For those applicants who
16 enroll in a qualifying degree program on or after January 1, 1995,
17 not

18 (4) Not more than 1,300 hours of experience obtained prior to
19 completing a master's or doctor's degree. This experience shall
20 be composed as follows:

21 (A) Not more than 750 hours of counseling and direct
22 supervisor contact may be obtained prior to the granting of the
23 qualifying master's or doctor's degree. However, this limitation
24 shall not be interpreted to include.

25 (B) Not more than 250 hours of professional enrichment
26 activities. Except for personal psychotherapy hours gained after
27 enrollment and commencement of classes in a qualifying degree
28 program, no excluding personal psychotherapy.

29 (C) Not more than 100 hours of personal psychotherapy. The
30 applicant shall be credited for three hours of experience for each
31 hour of personal psychotherapy.

32 (5) No hours of experience may be gained prior to completing
33 either 12 semester units or 18 quarter units of graduate
34 instruction and becoming a trainee except for personal
35 psychotherapy. All

36 (6) No hours of experience shall be gained within the more
37 than six years immediately preceding prior to the date the
38 application for licensure was filed, except that up to 500 hours of
39 clinical experience gained in the supervised practicum required

1 by subdivision (b) of Section 4980.40 shall be exempt from this
2 six-year requirement.

3 *(7) Not more than 1000 hours of experience for direct*
4 *supervisor contact and professional activities.*

5 *(8) Not more than 500 hours of experience providing group*
6 *therapy or group counseling.*

7 *(9) Not more than 250 hours of experience administering and*
8 *evaluating psychological tests of counselees, writing clinical*
9 *reports, writing progress notes, or writing process notes.*

10 *(10) Not more than 250 hours of experience providing*
11 *counseling or crisis counseling on the telephone.*

12 *(11) Not less than 500 total hours of experience in diagnosing*
13 *and treating couples, families, and children.*

14 (b) All applicants, trainees, and registrants shall be at all times
15 under the supervision of a supervisor who shall be responsible
16 for ensuring that the extent, kind, and quality of counseling
17 performed is consistent with the training and experience of the
18 person being supervised, and who shall be responsible to the
19 board for compliance with all laws, rules, and regulations
20 governing the practice of marriage and family therapy.
21 ~~Experience~~ *Supervised experience* shall be gained by interns and
22 trainees either as an employee or as a volunteer ~~in any allowable~~
23 ~~work setting specified in this chapter.~~ The requirements of this
24 chapter regarding gaining hours of experience and supervision
25 are applicable equally to employees and volunteers. Experience
26 shall not be gained by interns or trainees as an independent
27 contractor.

28 (c) Supervision shall include at least one hour of direct
29 supervisor contact ~~for in each week of for which experience~~
30 ~~claimed.~~ *is credited in each work setting, as specified:*

31 *(1) A trainee shall receive an average of at least one hour of*
32 *direct supervisor contact for every five hours of client contact in*
33 *each setting. A person gaining postdegree experience*

34 *(2) Each individual supervised after being granted a*
35 *qualifying degree shall receive an average of at least one hour of*
36 *direct supervisor contact for every 10 hours of client contact in*
37 *each setting in which experience is gained.*

38 *(3) For purposes of this section, "one hour of direct supervisor*
39 *contact" means one hour of face-to-face contact on an individual*
40 *basis or two hours of face-to-face contact in a group of not more*

1 than eight persons. ~~The contact may be counted toward the~~
2 ~~experience requirement for licensure, up to the maximum~~
3 ~~permitted by subdivision (d).~~

4 (4) All experience gained by a trainee shall be monitored by
5 the supervisor as specified by regulation. ~~The 5-to-1 and~~
6 ~~10-to-1 ratios specified in this subdivision shall be~~
7 applicable to all hours gained on or after January 1, 1995.

8 (d) (1) ~~The experience required by Section 4980.40 shall~~
9 ~~include supervised marriage and family therapy, and up to~~
10 ~~one-third of the hours may include direct supervisor contact and~~
11 ~~other professional enrichment activities.~~

12 (2) ~~“Professional enrichment activities,” for the purposes of~~
13 ~~this section, may include group, marital or conjoint, family, or~~
14 ~~individual psychotherapy received by an applicant. This~~
15 ~~psychotherapy may include up to 100 hours taken subsequent to~~
16 ~~enrolling and commencing classes in a qualifying degree~~
17 ~~program, or as an intern, and each of those hours shall be triple~~
18 ~~counted toward the professional experience requirement. This~~
19 ~~psychotherapy shall be performed by a licensed marriage and~~
20 ~~family therapist, licensed clinical social worker, licensed~~
21 ~~psychologist, licensed physician and surgeon certified in~~
22 ~~psychiatry by the American Board of Psychiatry and Neurology,~~
23 ~~or a licensed physician and surgeon who has completed a~~
24 ~~residency in psychiatry.~~

25 (e) (1) ~~A trainee may gain the~~ *be credited with supervised*
26 ~~experience required by subdivision (f) of Section 4980.40~~
27 ~~completed in any setting that meets all of the following:~~

28 (A) Lawfully and regularly provides mental health counseling
29 or psychotherapy.

30 (B) Provides oversight to ensure that the trainee’s work at the
31 setting meets the experience and supervision requirements set
32 forth in this chapter and is within the scope of practice for the
33 profession as defined in Section 4980.02.

34 (C) Is not a private practice owned by a licensed marriage and
35 family therapist, a licensed psychologist, a licensed clinical
36 social worker, a licensed physician and surgeon, or a professional
37 corporation of any of those licensed professions.

38 (2) Experience may be gained by the trainee solely as part of
39 the position for which the trainee volunteers or is employed.

40 (f)

1 ~~(e) (1) An intern may gain the~~ *be credited with supervised*
2 ~~experience required by subdivision (f) of Section 4980.40~~
3 ~~completed~~ in any setting that meets both of the following:

4 (A) Lawfully and regularly provides mental health counseling
5 or psychotherapy.

6 (B) Provides oversight to ensure that the intern's work at the
7 setting meets the experience and supervision requirements set
8 forth in this chapter and is within the scope of practice for the
9 profession as defined in Section 4980.02.

10 (2) An applicant shall not be employed or volunteer in a
11 private practice, as defined in subparagraph (C) of paragraph (1)
12 of subdivision ~~(e)~~ (d), until registered as an intern.

13 (3) While an intern may be either a paid employee or a
14 volunteer, employers are encouraged to provide fair
15 remuneration to interns.

16 (4) Except for periods of time during a supervisor's vacation
17 or sick leave, an intern who is employed or volunteering in
18 private practice shall be under the direct supervision of a licensee
19 enumerated in subdivision (f) of Section 4980.40. The
20 supervising licensee shall either be employed by and practice at
21 the same site as the intern's employer, or shall be an owner or
22 shareholder of the private practice. Alternative supervision may
23 be arranged during a supervisor's vacation or sick leave if the
24 supervision meets the requirements of this section.

25 (5) Experience may be gained by the intern solely as part of
26 the position for which the intern volunteers or is employed.

27 ~~(g) All~~

28 ~~(f) Except as provided in subdivision (g), all persons shall~~
29 ~~register with the board as an intern in order to be credited for~~
30 ~~postdegree hours of supervised experience gained toward~~
31 ~~licensure, regardless of the setting where those hours are to be~~
32 ~~gained. Except as provided in subdivision (h), all postdegree~~
33 ~~hours shall be gained as a registered intern.~~

34 ~~(h)~~

35 (g) Except when employed in a private practice setting, all
36 postdegree hours of experience shall be credited toward licensure
37 so long as the applicant applies for the intern registration within
38 90 days of the granting of the qualifying master's or doctor's
39 degree and is thereafter granted the intern registration by the
40 board.

1 ~~(i)~~

2 (h) Trainees, interns, and applicants shall not receive any
3 remuneration from patients or clients, and shall only be paid by
4 their employers.

5 ~~(j)~~

6 (i) Trainees, interns, and applicants shall only perform services
7 at the place where their employers regularly conduct business,
8 which may include performing services at other locations, so
9 long as the services are performed under the direction and control
10 of their employer and supervisor, and in compliance with the
11 laws and regulations pertaining to supervision. Trainees and
12 interns shall have no proprietary interest in the employer's
13 business.

14 ~~(k)~~

15 (j) Trainees, interns, or applicants who provide volunteered
16 services or other services, and who receive no more than a total,
17 from all work settings, of five hundred dollars (\$500) per month
18 as reimbursement for expenses actually incurred by those
19 trainees, interns, or applicants for services rendered in any lawful
20 work setting other than a private practice shall be considered an
21 employee and not an independent contractor. The board may
22 audit applicants who receive reimbursement for expenses, and
23 the applicants shall have the burden of demonstrating that the
24 payments received were for reimbursement of expenses actually
25 incurred.

26 ~~(l)~~

27 (k) Each educational institution preparing applicants for
28 licensure pursuant to this chapter shall consider requiring, and
29 shall encourage, its students to undergo individual, marital or
30 conjoint, family, or group counseling or psychotherapy, as
31 appropriate. Each supervisor shall consider, advise, and
32 encourage his or her interns and trainees regarding the
33 advisability of undertaking individual, marital or conjoint,
34 family, or group counseling or psychotherapy, as appropriate.
35 Insofar as it is deemed appropriate and is desired by the
36 applicant, the educational institution and supervisors are
37 encouraged to assist the applicant in locating that counseling or
38 psychotherapy at a reasonable cost.

39 SEC. 19. Section 4982.05 of the Business and Professions
40 Code is amended to read:

1 4982.05. (a) Except as provided in subdivisions (b), (c), and
2 (e), any accusation filed against a licensee pursuant to Section
3 11503 of the Government Code shall be filed within three years
4 from the date the board discovers the alleged act or omission that
5 is the basis for disciplinary action, or within seven years from the
6 date the alleged act or omission that is the basis for disciplinary
7 action occurred, whichever occurs first.

8 (b) An accusation filed against a licensee pursuant to Section
9 11503 of the Government Code alleging the procurement of a
10 license by fraud or misrepresentation is not subject to the
11 limitations set forth in subdivision (a).

12 (c) The limitation provided for by subdivision (a) shall be
13 tolled for the length of time required to obtain compliance when
14 a report required to be filed by the licensee or registrant with the
15 board pursuant to Article 11 (commencing with Section 800) of
16 Chapter 1 is not filed in a timely fashion.

17 (d) If an alleged act or omission involves a minor, the
18 seven-year limitations period provided for by subdivision (a) and
19 the 10-year limitations period provided for by subdivision (e)
20 shall be tolled until the minor reaches the age of majority.

21 (e) An accusation filed against a licensee pursuant to Section
22 11503 of the Government Code alleging sexual misconduct shall
23 be filed within three years after the board discovers the act or
24 omission alleged as the ~~ground~~ grounds for disciplinary action,
25 or within 10 years after the act or omission alleged as the
26 grounds for disciplinary action occurs, whichever occurs first.
27 This subdivision shall apply to a complaint alleging sexual
28 misconduct received by the board on and after January 1, 2002.

29 (f) The limitations period provided by subdivision (a) shall be
30 tolled during any period if material evidence necessary for
31 prosecuting or determining whether a disciplinary action would
32 be appropriate is unavailable to the board due to an ongoing
33 criminal investigation.

34 (g) For purposes of this section, “discovers” means the later of
35 the occurrence of any of the following with respect to each act or
36 omission alleged as the basis for disciplinary action:

37 (1) The date the board received a complaint or report
38 describing the act or omission.

39 (2) The date, subsequent to the original complaint or report, on
40 which the board became aware of any additional acts or

1 omissions alleged as the basis for disciplinary action against the
2 same individual.

3 (3) The date the board receives from the complainant a written
4 release of information pertaining to the complainant's diagnosis
5 and treatment.

6 SEC. 20. Section 4982.26 of the Business and Professions
7 Code is amended to read:

8 4982.26. The board shall revoke any license issued under this
9 chapter upon a decision made in accordance with the procedures
10 set forth in Chapter 5 (commencing with Section 11500) of Part
11 1 of Division 3 of Title 2 of the Government Code, that contains
12 any finding of fact that the licensee or registrant engaged in any
13 act of sexual contact, as defined in Section 729, when that act is
14 with a patient, or with a former patient when the relationship was
15 terminated primarily for the purpose of engaging in that act. The
16 revocation shall not be stayed by the administrative law judge or
17 the board.

18 SEC. 21. Section 4986.71 of the Business and Professions
19 Code is amended to read:

20 4986.71. The board shall revoke any license issued under this
21 chapter upon a decision made in accordance with the procedures
22 set forth in Chapter 5 (commencing with Section 11500) of Part
23 1 of Division 3 of Title 2 of the Government Code, that contains
24 any finding of fact that the licensee engaged in any act of sexual
25 contact, as defined in Section 729, when that act is with a patient,
26 or with a former patient when the relationship was terminated
27 primarily for the purpose of engaging in that act, shall contain an
28 order of revocation. The revocation shall not be stayed by the
29 administrative law judge or the board.

30 SEC. 22. Section 4990.1 of the Business and Professions
31 Code is amended to read:

32 4990.1. There is in the Department of Consumer Affairs a
33 Board of Behavioral Sciences which consists of 11 members.

34 This section shall become inoperative on July 1, ~~2011~~ 2008,
35 and, as of January 1, ~~2012~~ 2009, is repealed, unless a later
36 enacted statute, which becomes effective on or before January 1,
37 ~~2012~~, 2009, deletes or extends the dates on which it becomes
38 inoperative and is repealed.

39 SEC. 23. Section 4990.8 of the Business and Professions
40 Code is amended to read:

1 4990.8. The executive officer shall exercise the powers and
2 perform the duties delegated by the board and vested in him or
3 her by this chapter.

4 This section shall become inoperative on July 1, ~~2011~~ 2008,
5 and, as of January 1, ~~2012~~, 2009, is repealed, unless a later
6 enacted statute, which becomes effective on or before January 1,
7 ~~2012~~ 2009, deletes or extends the dates on which it becomes
8 inoperative and is repealed.

9 SEC. 24. Section 4992.31 of the Business and Professions
10 Code is amended to read:

11 4992.31. (a) Except as provided in subdivisions (b), (c), and
12 (e), any accusation filed against a licensee pursuant to Section
13 11503 of the Government Code shall be filed within three years
14 from the date the board discovers the alleged act or omission that
15 is the basis for disciplinary action, or within seven years from the
16 date the alleged act or omission that is the basis for disciplinary
17 action occurred, whichever occurs first.

18 (b) An accusation filed against a licensee pursuant to Section
19 11503 of the Government Code alleging the procurement of a
20 license by fraud or misrepresentation is not subject to the
21 limitations set forth in subdivision (a).

22 (c) The limitation provided for by subdivision (a) shall be
23 tolled for the length of time required to obtain compliance when
24 a report required to be filed by the licensee or registrant with the
25 board pursuant to Article 11 (commencing with Section 800) of
26 Chapter 1 is not filed in a timely fashion.

27 (d) If an alleged act or omission involves a minor, the
28 seven-year limitations period provided for by subdivision (a) and
29 the 10-year limitations period provided for by subdivision (e)
30 shall be tolled until the minor reaches the age of majority.

31 (e) An accusation filed against a licensee pursuant to Section
32 11503 of the Government Code alleging sexual misconduct shall
33 be filed within three years after the board discovers the act or
34 omission alleged as the ground for disciplinary action, or within
35 10 years after the act or omission alleged as the ground for
36 disciplinary action occurs, whichever occurs first. This
37 subdivision shall apply to a complaint alleging sexual
38 misconduct received by the board on and after January 1, 2002.

39 (f) The limitations period provided by subdivision (a) shall be
40 tolled during any period if material evidence necessary for

1 prosecuting or determining whether a disciplinary action would
2 be appropriate is unavailable to the board due to an ongoing
3 criminal investigation.

4 (g) For purposes of this section, “discovers” means the later of
5 the occurrence of any of the following with respect to each act or
6 omission alleged as the basis for disciplinary action:

7 (1) The date the board received a complaint or report
8 describing the act or omission.

9 (2) The date, subsequent to the original complaint or report, on
10 which the board became aware of any additional acts or
11 omissions alleged as the basis for disciplinary action against the
12 same individual.

13 (3) The date the board receives from the complainant a written
14 release of information pertaining to the complainant’s diagnosis
15 and treatment.

16 SEC. 25. Section 4992.33 of the Business and Professions
17 Code is amended to read:

18 4992.33. The board shall revoke any license issued under this
19 chapter upon a decision made in accordance with the procedures
20 set forth in Chapter 5 (commencing with Section 11500) of Part
21 1 of Division 3 of Title 2 of the Government Code, that contains
22 any finding of fact that the licensee or registrant engaged in any
23 act of sexual contact, as defined in Section 729, when that act is
24 with a patient, or with a former patient when the relationship was
25 terminated primarily for the purpose of engaging in that act. The
26 revocation shall not be stayed by the administrative law judge or
27 the board.

28 SEC. 26. Section 5054 is added to the Business and
29 Professions Code, to read:

30 5054. (a) Notwithstanding any other provision of this
31 chapter, an individual or firm holding a valid and current license,
32 certificate, or permit to practice public accountancy from another
33 state may prepare tax returns for natural persons who are
34 California residents or estate tax returns for the estates of natural
35 persons who were clients at the time of death without obtaining a
36 permit to practice public accountancy issued by the board under
37 this chapter or a practice privilege pursuant to Article 5.1
38 (commencing with Section 5096) provided that the individual or
39 firm does not physically enter California to practice public
40 accountancy pursuant to Section 5051, does not solicit California

1 clients, and does not assert or imply that the individual or firm is
2 licensed or registered to practice public accountancy in
3 California.

4 (b) The board may, by regulation, limit the number of tax
5 returns that may be prepared pursuant to subdivision (a).

6 SEC. 27. Section 5079 of the Business and Professions Code
7 is amended to read:

8 5079. (a) Notwithstanding any other provision of this
9 chapter, any firm lawfully engaged in the practice of public
10 accountancy in this state may have owners who are not licensed
11 as certified public accountants or public accountants if the
12 following conditions are met:

13 (1) Nonlicensee owners shall be natural persons or entities,
14 such as partnerships, professional corporations, or others,
15 provided that each ultimate beneficial owner of an equity interest
16 in that entity shall be a natural person materially participating in
17 the business conducted by the firm or an entity controlled by the
18 firm.

19 (2) Nonlicensee owners shall materially participate in the
20 business of the firm, or an entity controlled by the firm, and their
21 ownership interest shall revert to the firm upon the cessation of
22 any material participation.

23 (3) Licensees shall in the aggregate, directly or beneficially,
24 comprise a majority of owners, except that firms with two
25 owners may have one owner who is a nonlicensee.

26 (4) Licensees shall in the aggregate, directly or beneficially,
27 hold more than half of the equity capital and possess majority
28 voting rights.

29 (5) Nonlicensee owners shall not hold themselves out as
30 certified public accountants or public accountants and each
31 licensed firm shall disclose actual or potential involvement of
32 nonlicensee owners in the services provided.

33 (6) There shall be a certified public accountant or public
34 accountant who has ultimate responsibility for each financial
35 statement attest and compilation service engagement.

36 (7) Except as permitted by the board in the exercise of its
37 discretion, a person may not become a nonlicensee owner or
38 remain a nonlicensee owner if the person has done either of the
39 following:

1 (A) Been convicted of any crime, an element of which is
2 dishonesty or fraud, under the laws of any state, of the United
3 States, or of any other jurisdiction.

4 (B) Had a professional license or the right to practice revoked
5 or suspended for reasons other than nonpayment of dues or fees,
6 or has voluntarily surrendered a license or right to practice with
7 disciplinary charges or a disciplinary investigation pending, and
8 not reinstated by a licensing or regulatory agency of any state, or
9 of the United States, including, but not limited to, the Securities
10 and Exchange Commission or Public Company Accounting
11 Oversight Board, or of any other jurisdiction.

12 (b) (1) A nonlicensee owner of a licensed firm shall report to
13 the board in writing of the occurrence of any of the events set
14 forth in paragraph (7) of subdivision (a) within 30 days of the
15 date the nonlicensee owner has knowledge of the event. A
16 conviction includes the initial plea, verdict, or finding of guilt,
17 pleas of no contest, or pronouncement of sentence by a trial court
18 even though that conviction may not be final or sentence actually
19 imposed until appeals are exhausted.

20 (2) A California nonlicensee owner of a licensed firm shall
21 report to the board in writing the occurrence of any of the
22 following events occurring on or after January 1, 2006, within 30
23 days of the date the California nonlicensee owner has knowledge
24 of the events:

25 (A) Any notice of the opening or initiation of a formal
26 investigation of the nonlicensee *owner* by the Securities and
27 Exchange Commission or its designee, or any notice from the
28 Securities and Exchange Commission to a nonlicensee *owner*
29 requesting a Wells submission.

30 (B) Any notice of the opening or initiation of an investigation
31 of the nonlicensee *owner* by the Public Company Accounting
32 Oversight Board or its designee.

33 (C) Any notice of the opening or initiation of an investigation
34 of the nonlicensee *owner* by another professional licensing
35 agency.

36 (3) The report required by paragraphs (1) and (2) shall be
37 signed by the nonlicensee owner and set forth the facts that
38 constitute the reportable event. If the reportable event involves
39 the action of an administrative agency or court, the report shall

1 identify the name of the agency or court, the title of the matter,
2 and the date of occurrence of the event.

3 (4) Notwithstanding any other provision of law, reports
4 received by the board pursuant to paragraph (2) shall not be
5 disclosed to the public pursuant to the California Public Records
6 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
7 of Title 1 of the Government Code) other than (A) in the course
8 of any disciplinary proceeding by the board after the filing of a
9 formal accusation, (B) in the course of any legal action to which
10 the board is a party, (C) in response to an official inquiry from a
11 state or federal agency, (D) in response to a subpoena or
12 summons enforceable by order of a court, or (E) when otherwise
13 specifically required by law.

14 (5) Nothing in this subdivision shall impose a duty upon any
15 licensee or nonlicensee owner to report to the board the
16 occurrence of any events set forth in paragraph (7) of subdivision
17 (a) or paragraph (2) of this subdivision either by or against any
18 other nonlicensee owner.

19 (c) For purposes of this section, the following definitions
20 apply:

21 (1) “Licensee” means a certified public accountant or public
22 accountant in this state or a certified public accountant in good
23 standing in another state.

24 (2) “Material participation” means an activity that is regular,
25 continuous, and substantial.

26 (d) All firms with nonlicensee owners shall certify at the time
27 of registration and renewal that the firm is in compliance with
28 this section.

29 (e) The board shall adopt regulations to implement, interpret,
30 or make specific this section.

31 SEC. 28. Section 8000 of the Business and Professions Code
32 is amended to read:

33 8000. There is in the Department of Consumer Affairs a
34 Court Reporters Board of California, which consists of five
35 members, three of whom shall be public members and two of
36 whom shall be holders of certificates issued under this chapter
37 who have been actively engaged as shorthand reporters within
38 this state for at least five years immediately preceding their
39 appointment.

1 This section shall become inoperative on July 1, ~~2011~~ 2008,
2 and, as of January 1, ~~2012~~ 2009, is repealed, unless a later
3 enacted statute, which becomes effective on or before January 1,
4 ~~2012~~ 2009, deletes or extends the dates on which it becomes
5 inoperative and is repealed.

6 SEC. 29. Section 8005 of the Business and Professions Code
7 is amended to read:

8 8005. The Court Reporters Board of California is charged
9 with the executive functions necessary for effectuating the
10 purposes of this chapter. It may appoint committees as it deems
11 necessary or proper. The board may appoint, prescribe the duties,
12 and fix the salary of an executive officer. Except as provided by
13 Section 159.5, the board may also employ other employees as
14 may be necessary, subject to civil service and other provisions of
15 law.

16 This section shall become inoperative on July 1, ~~2011~~ 2008,
17 and, as of January 1, ~~2012~~ 2009, is repealed, unless a later
18 enacted statute, which becomes effective on or before January 1,
19 ~~2012~~ 2009, deletes or extends the dates on which it becomes
20 inoperative and is repealed.

21 SEC. 30. Section 8010 of the Business and Professions Code
22 is amended to read:

23 8010. Information regarding a complaint against a specific
24 licensee may not be disclosed to the public until an accusation
25 has been filed by the board and the licensee has been notified of
26 the filing of the accusation against his or her license and the
27 disciplinary proceedings to be conducted in accordance with
28 Chapter 5 (commencing with Section 11500) of Part 1 of
29 Division 3 of Title 2 of the Government Code. This section does
30 not apply to citations, fines, letters of reprimand, or orders of
31 abatement, which shall be disclosed to the public upon notice to
32 the licensee.

33 SEC. 31. Section 8025 of the Business and Professions Code
34 is amended to read:

35 8025. A certificate issued under this chapter may be
36 suspended, revoked, denied, or other disciplinary action may be
37 imposed for one or more of the following causes:

38 (a) Conviction of any felony or any misdemeanor if the
39 misdemeanor is substantially related to the functions and duties

1 of a court reporter. The record of conviction, or a certified copy
2 thereof, is conclusive evidence of the conviction.

3 (b) Failure to notify the board of a conviction described in
4 subdivision (a), in accordance with Section 8024 or 8024.2.

5 (c) Fraud or misrepresentation resorted to in obtaining a
6 certificate hereunder.

7 (d) Fraud, dishonesty, corruption, willful violation of duty,
8 gross negligence or incompetence in practice, or unprofessional
9 conduct in or directly related to the practice of shorthand
10 reporting.

11 “Unprofessional conduct” includes, but is not limited to, acts
12 contrary to professional standards concerning confidentiality;
13 impartiality; filing and retention of notes; notifications,
14 availability, delivery, execution and certification of transcripts;
15 and any provision of law substantially related to the duties of a
16 certified shorthand reporter.

17 (e) Repeated unexcused failure, whether or not willful, to
18 transcribe notes of cases pending on appeal and to file the
19 transcripts of those notes within the time required by law or to
20 transcribe or file notes of other proceedings within the time
21 required by law or agreed to by contract. Violation of this
22 subdivision shall also be deemed an act endangering the public
23 health, safety, or welfare within the meaning of Section 494.

24 (f) Loss or destruction of stenographic notes, whether on paper
25 or electronic media, that prevents the production of a transcript
26 due to negligence of the licensee.

27 (g) Failure to comply with, or to pay a monetary sanction
28 imposed by, any court for failure to provide timely transcripts.
29 The record of the court order, or a certified copy thereof, is
30 conclusive evidence that the sanction was imposed.

31 (h) Failure to pay a civil penalty relating to the provision of
32 court reporting services or products.

33 (i) The revocation of, suspension of, or other disciplinary
34 action against a license to act as a certified shorthand reporter by
35 another state. A certified copy of the revocation, suspension, or
36 disciplinary action by the other state is conclusive evidence of
37 that action.

38 (j) Violation of this chapter or the statutes, rules, and
39 regulations pertaining to certified shorthand reporters.

1 SEC. 32. Section 8030.2 of the Business and Professions
2 Code is amended to read:

3 8030.2. (a) To provide shorthand reporting services to
4 low-income litigants in civil cases, who are unable to otherwise
5 afford those services, funds generated by fees received by the
6 board pursuant to subdivision (c) of Section 8031 in excess of
7 funds needed to support the board's operating budget for the
8 fiscal year in which a transfer described below is made shall be
9 used by the board for the purpose of establishing and maintaining
10 a Transcript Reimbursement Fund. The Transcript
11 Reimbursement Fund shall be established by a transfer of funds
12 from the Court Reporters' Fund and shall be maintained in an
13 amount no less than three hundred thousand dollars (\$300,000)
14 for each fiscal year.

15 (b) All moneys held in the Court Reporters' Fund on the
16 effective date of this section in excess of the board's operating
17 budget for the 1996-97 fiscal year shall be used as provided in
18 subdivision (a).

19 (c) Refunds and unexpended funds that are anticipated to
20 remain in the Transcript Reimbursement Fund at the end of the
21 fiscal year shall be considered by the board in establishing the fee
22 assessment pursuant to Section 8031 so that the assessment shall
23 maintain the Transcript Reimbursement Fund at the appropriate
24 level in the following fiscal year.

25 (d) The Transcript Reimbursement Fund is hereby created in
26 the State Treasury. Notwithstanding Section 13340 of the
27 Government Code, moneys in the Transcript Reimbursement
28 Fund are continuously appropriated for the purposes of this
29 chapter.

30 (e) Applicants who have been reimbursed pursuant to this
31 chapter for services provided to litigants and who are awarded
32 court costs or attorneys' fees by judgment or by settlement
33 agreement shall refund the full amount of that reimbursement to
34 the fund within 90 days of receipt of the award or settlement.

35 (f) Subject to the limitations of this chapter, the board shall
36 maintain the fund at a level that is sufficient to pay all qualified
37 claims. To accomplish this objective, the board shall utilize all
38 refunds, unexpended funds, fees, and any other moneys received
39 by the board.

1 (g) Notwithstanding Section 16346 of the Government Code,
2 all unencumbered funds remaining in the Transcript
3 Reimbursement Fund as of June 29, 2011, shall be transferred to
4 the Court Reporters' Fund.

5 This section shall become inoperative on July 1, 2011, and, as
6 of January 1, 2012, is repealed, unless a later enacted statute, that
7 becomes operative on or before January 1, 2012, deletes or
8 extends the dates on which it becomes inoperative and is
9 repealed.

10 SEC. 33. Section 8030.4 of the Business and Professions
11 Code is amended to read:

12 8030.4. As used in this chapter:

13 (a) "Qualified legal services project" means a nonprofit project
14 incorporated and operated exclusively in California that provides
15 as its primary purpose and function legal services without charge
16 to indigent persons, has a board of directors or advisory board
17 composed of both attorneys and consumers of legal services, and
18 provides for community participation in legal services
19 programming. Legal services projects funded either in whole or
20 in part by the Legal Services Corporation or with Older
21 Americans Act funds are presumed to be qualified legal services
22 projects for the purposes of this chapter.

23 (b) "Qualified support center" means an incorporated
24 nonprofit legal services center, having an office or offices in
25 California, which office or offices provide legal services or
26 technical assistance without charge to qualified legal services
27 projects and their clients on a multicounty basis in California.
28 Support centers funded either in whole or in part by the Legal
29 Services Corporation or with Older Americans Act funds are
30 presumed to be qualified legal services projects for the purposes
31 of this chapter.

32 (c) "Other qualified project" means a nonprofit organization
33 formed for charitable or other public purposes, not receiving
34 funds from the Legal Services Corporation or pursuant to the
35 Older Americans Act, which organization or association provides
36 free legal services to indigent persons.

37 (d) "Pro bono attorney" means any attorney, law firm, or legal
38 corporation, licensed to practice law in this state, which
39 undertakes without charge to the party the representation of an
40 indigent person, referred by a qualified legal services project,

1 qualified support center, or other qualified project, in a case not
2 considered to be fee generating as defined in this chapter.

3 (e) “Applicant” means a qualified legal services project,
4 qualified support center, other qualified project, or pro bono
5 attorney applying to receive funds from the Transcript
6 Reimbursement Fund established by this chapter. The term
7 “applicant” shall not include persons appearing pro se to
8 represent themselves at any stage of the case.

9 (f) “Indigent person” means either a person whose income is
10 125 percent or less of the current poverty threshold established
11 by the Office of Management and Budget of the United States, a
12 disabled person whose income after meeting medical and other
13 disability-related special expenses is 125 percent or less of that
14 current poverty threshold, or a person who receives or is eligible
15 to receive supplemental security income.

16 (g) “Fee-generating case” means any case or matter which, if
17 undertaken on behalf of an eligible client by an attorney in
18 private practice, reasonably may be expected to result in payment
19 of a fee for legal services from an award to a client, from public
20 funds, or from an opposing party. A reasonable expectation as to
21 payment of a legal fee exists wherever a client enters into a
22 contingent fee agreement with his or her lawyer. If there is no
23 contingent fee agreement, a case is not considered fee generating
24 if adequate representation is deemed to be unavailable because of
25 the occurrence of any of the following circumstances:

26 (1) Where the applicant has determined that referral is not
27 possible because of any of the following:

28 (A) The case has been rejected by the local lawyer referral
29 service, or if there is no such service, by two private attorneys
30 who have experience in the subject matter of the case.

31 (B) Neither the referral service nor any lawyer will consider
32 the case without payment of a consultation fee.

33 (C) The case is of the type that private attorneys in the area
34 ordinarily do not accept, or do not accept without prepayment of
35 a fee.

36 (D) Emergency circumstances compel immediate action
37 before referral can be made, but the client is advised that, if
38 appropriate and consistent with professional responsibility,
39 referral will be attempted at a later time.

1 (2) Where recovery of damages is not the principal object of
2 the case and a request for damages is merely ancillary to an
3 action for equitable or other nonpecuniary relief; or inclusion of
4 a counterclaim requesting damages is necessary for effective
5 defense or because of applicable rules governing joinder of
6 counterclaims.

7 (3) Where a court appoints an applicant or an employee of an
8 applicant pursuant to a statute or a court rule or practice of equal
9 applicability to all attorneys in the jurisdiction.

10 (4) In any case involving the rights of a claimant under a
11 public supported benefit program for which entitlement to benefit
12 is based on need.

13 (h) “Legal Services Corporation” means the Legal Services
14 Corporation established under the Legal Services Corporation
15 Act of 1974, Public Law 93-355, as amended.

16 (i) “Supplemental security income recipient” means an
17 individual receiving or eligible to receive payments under Title
18 XVI of the Social Security Act, Public Law 92-603, as amended,
19 or payment under Chapter 3 (commencing with Section 12000)
20 of Part 3 of Division 9 of the Welfare and Institutions Code.

21 (j) “Lawyer referral service” means a lawyer referral program
22 authorized by the State Bar of California pursuant to the rules of
23 professional conduct.

24 (k) “Older Americans Act” means the Older Americans Act of
25 1965, Public Law 89-73, as amended.

26 (l) “Rules of professional conduct” means those rules adopted
27 by the State Bar pursuant to Sections 6076 and 6077.

28 (m) “Certified shorthand reporter” means a shorthand reporter
29 certified pursuant to Article 3 (commencing with Section 8020)
30 performing shorthand reporting services pursuant to Section
31 8017.

32 (n) “Case” means a single legal proceeding from its inception,
33 through all levels of hearing, trial, and appeal, until its ultimate
34 conclusion and disposition.

35 (o) This section shall become inoperative on July 1, 2011, and,
36 as of January 1, 2012, is repealed, unless a later enacted statute,
37 that becomes operative on or before January 1, 2012, deletes or
38 extends the dates on which it becomes inoperative and is
39 repealed.

SEC. 34. Section 8030.6 of the Business and Professions Code is amended to read:

8030.6. The board shall disburse funds from the Transcript Reimbursement Fund for the costs, exclusive of per diem charges, of preparing either an original transcript and one copy thereof, or where appropriate, a copy of the transcript, of court or deposition proceedings, or both, incurred as a contractual obligation between the shorthand reporter and the applicant, for litigation conducted in California. If no deposition transcript is ordered, the board may reimburse the applicant or the certified shorthand reporter designated in the application for per diem costs. The rate of per diem for depositions shall not exceed seventy-five dollars (\$75) for a half day, or one hundred twenty-five dollars (\$125) for a full day. In the event that a transcript is ordered within one year of the date of the deposition, but subsequent to the per diem having been reimbursed by the Transcript Reimbursement Fund, the amount of the per diem shall be deducted from the amount of transcript. Reimbursement may be obtained through the following procedures:

(a) The applicant or certified shorthand reporter shall promptly submit to the board the certified shorthand reporter's invoice for transcripts together with the appropriate documentation as is required by this chapter.

(b) Except as provided in subdivision (c), the board shall promptly determine if the applicant or the certified shorthand reporter is entitled to reimbursement under this chapter and shall make payment as follows:

(1) Regular customary charges for preparation of original deposition transcripts and one copy thereof, or a copy of the transcripts.

(2) Regular customary charges for expedited deposition transcripts up to a maximum of two thousand five hundred dollars (\$2,500) per case.

(3) Regular customary charges for the preparation of original transcripts and one copy thereof, or a copy of transcripts of court proceedings.

(4) Regular customary charges for expedited or daily charges for preparation of original transcripts and one copy thereof or a copy of transcripts of court proceedings.

1 (5) The charges may not include notary or handling fees. The
2 charges may include actual shipping costs and exhibits, except
3 that the cost of exhibits may not exceed thirty-five cents (\$0.35)
4 each or a total of thirty-five dollars (\$35) per transcript.

5 (c) The maximum amount reimbursable by the fund under
6 subdivision (b) may not exceed twenty thousand dollars
7 (\$20,000) per case per year.

8 (d) If entitled, and funds are available, the board shall
9 forthwith disburse the appropriate sum to the applicant or the
10 certified shorthand reporter when documentation as provided in
11 subdivision (d) of Section 8030.8 accompanies the application. A
12 notice shall be sent to the recipient requiring the recipient to file
13 a notice with the court in which the action is pending stating the
14 sum of reimbursement paid pursuant to this section. The notice
15 filed with the court shall also state that if the sum is subsequently
16 included in any award of costs made in the action, that the sum is
17 to be ordered refunded by the applicant to the Transcript
18 Reimbursement Fund whenever the sum is actually recovered as
19 costs. The court may not consider whether payment has been
20 made from the Transcript Reimbursement Fund in determining
21 the appropriateness of any award of costs to the parties. The
22 board shall also forthwith notify the applicant that the reimbursed
23 sum has been paid to the certified shorthand reporter and shall
24 likewise notify the applicant of the duty to refund any of the sum
25 actually recovered as costs in the action.

26 (e) If not entitled, the board shall forthwith return a copy of
27 the invoice to the applicant and the designated certified shorthand
28 reporter together with a notice stating the grounds for denial.

29 (f) The board shall complete its actions under this subdivision
30 within 30 days of receipt of the invoice and all required
31 documentation, including a completed application.

32 (g) Applications for reimbursements from the fund shall be
33 filled on a first-come basis.

34 (h) Applications for reimbursement that cannot be paid from
35 the fund due to insufficiency of the fund for that fiscal year shall
36 be held over until the next fiscal year to be paid out of the
37 renewed fund.

38 (i) This section shall become inoperative on July 1, 2011, and,
39 as of January 1, 2012, is repealed, unless a later enacted statute,
40 that becomes operative on or before January 1, 2012, deletes or

1 extends the dates on which it becomes inoperative and is
2 repealed.

3 SEC. 35. Section 8030.8 of the Business and Professions
4 Code is amended to read:

5 8030.8. (a) For purposes of this chapter, documentation
6 accompanying an invoice is sufficient to establish entitlement for
7 reimbursement from the Transcript Reimbursement Fund if it is
8 filed with the executive officer on an application form prescribed
9 by the board that is complete in all respects, and that establishes
10 all of the following:

11 (1) The case name and number and that the litigant or litigants
12 requesting the reimbursement are indigent persons.

13 (2) The applicant is qualified under the provisions of this
14 chapter.

15 (3) The case is not a fee-generating case, as defined in Section
16 8030.4.

17 (4) The invoice or other documentation shall evidence that the
18 certified shorthand reporter to be reimbursed was, at the time the
19 services were rendered, a duly licensed certified shorthand
20 reporter.

21 (5) The invoice shall be accompanied by a statement, signed
22 by the applicant, stating that the charges are for transcripts
23 actually provided as indicated on the invoice.

24 (6) The applicant has acknowledged, in writing, that as a
25 condition of entitlement for reimbursement that the applicant
26 agrees to refund the entire amount disbursed from the Transcript
27 Reimbursement Fund from any costs or attorneys' fees awarded
28 to the applicant by the court or provided for in any settlement
29 agreement in the case.

30 (7) The certified shorthand reporter's invoice for transcripts
31 shall include separate itemizations of charges claimed, as
32 follows:

33 (A) Total charges and rates for customary services in
34 preparation of an original transcript and one copy or a copy of
35 the transcript of depositions.

36 (B) Total charges and rates for expedited deposition
37 transcripts.

38 (C) Total charges and rates in connection with transcription of
39 court proceedings.

1 (b) For an applicant claiming to be eligible pursuant to
2 subdivision (a), (b), or (c) of Section 8030.4, a letter from the
3 director of the project or center, certifying that the project or
4 center meets the standards set forth in one of those subdivisions
5 and that the litigant or litigants are indigent persons, is sufficient
6 documentation to establish eligibility.

7 (c) For an applicant claiming to be eligible pursuant to
8 subdivision (d) of Section 8030.4, a letter certifying that the
9 applicant meets the requirements of that subdivision, that the
10 case is not a fee-generating case, as defined in subdivision (g) of
11 Section 8030.4, and that the litigant or litigants are indigent
12 persons, together with a letter from the director of a project or
13 center defined in subdivision (a), (b), or (c) of Section 8030.4
14 certifying that the litigant or litigants had been referred by that
15 project or center to the applicant, is sufficient documentation to
16 establish eligibility.

17 (d) The applicant may receive reimbursement directly from the
18 board when the applicant has previously paid the certified
19 shorthand reporter for transcripts as provided in Section 8030.6.
20 To receive payment directly, the applicant shall submit, in
21 addition to all other required documentation, an itemized
22 statement signed by the certified shorthand reporter performing
23 the services that describes payment for transcripts in accordance
24 with the requirements of Section 8030.6.

25 (e) The board may prescribe appropriate forms to be used by
26 applicants and certified shorthand reporters to facilitate these
27 requirements.

28 (f) This chapter does not restrict the contractual obligation or
29 payment for services, including, but not limited to, billing the
30 applicant directly, during the pendency of the claim.

31 (g) This section shall become inoperative on July 1, 2011, and,
32 as of January 1, 2012, is repealed, unless a later enacted statute,
33 that becomes operative on or before January 1, 2012, deletes or
34 extends the dates on which it becomes inoperative and is
35 repealed.

36 SEC. 36. Section 8520 of the Business and Professions Code
37 is amended to read:

38 8520. (a) There is in the Department of Consumer Affairs a
39 Structural Pest Control Board, which consists of seven members.

(b) Subject to the jurisdiction conferred upon the director by Division 1 (commencing with Section 100) of this code, the board is vested with the power to and shall administer the provisions of this chapter.

(c) It is the intent of the Legislature that consumer protection is the primary mission of the board.

(d) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 37. Section 8528 of the Business and Professions Code is amended to read:

8528. With the approval of the director, the board shall appoint a registrar, fix his or her compensation and prescribe his or her duties.

The registrar is the executive officer and secretary of the board.

This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 38. Section 22253.2 of the Business and Professions Code is amended to read:

22253.2. (a) The Franchise Tax Board shall notify the California Tax Education Council when it identifies an individual who has violated paragraph (1) of subdivision (a) of Section 22253.

(b) Upon receiving the notice described in subdivision (a), the California Tax Education Council shall notify the Attorney General, a district attorney, or a city attorney of the violation. Upon receiving this notice, the Attorney General, a district attorney, or a city attorney may do any of the following:

(1) Cite individuals preparing tax returns in violation of subdivision (a) of Section 22253.

(2) Levy a fine up to five thousand dollars (\$5,000) per violation.

1 (3) Issue a cease and desist order, which shall remain in effect
2 until the individual has complied with paragraph (1) of
3 subdivision (a) of Section 22253.

4 (c) The California Tax Education Council may enter into an
5 agreement with the Franchise Tax Board to provide
6 reimbursement to the Franchise Tax Board for any expenses
7 incurred by the Franchise Tax Board to implement subdivision
8 (a) of this section.

9 SEC. 39. Section 19167 of the Revenue and Taxation Code is
10 amended to read:

11 19167. A penalty shall be imposed under this section for any
12 of the following:

13 (a) In accordance with Section 6695(a) of the Internal
14 Revenue Code, for failure to furnish a copy of the return to the
15 taxpayer, as required by Section 18625.

16 (b) In accordance with Section 6695(c) of the Internal
17 Revenue Code, for failure to furnish an identifying number, as
18 required by Section 18624.

19 (c) In accordance with Section 6695(d) of the Internal
20 Revenue Code, for failure to retain a copy or list, as required by
21 Section 18625 or for failure to retain an electronic filing
22 declaration, as required by Section 18621.5.

23 (d) Failure to register as a tax preparer with the California Tax
24 Education Council, as required by Section 22253 of the Business
25 and Professions Code, unless it is shown that the failure was due
26 to reasonable cause and not due to willful neglect.

27 (1) The amount of the penalty under this subdivision for the
28 first failure to register is two thousand five hundred dollars
29 (\$2,500). This penalty shall be waived if proof of registration is
30 provided to the Franchise Tax Board within 90 days from the
31 date notice of the penalty is mailed to the tax preparer.

32 (2) The amount of the penalty under this subdivision for a
33 failure to register, other than the first failure to register, is five
34 thousand dollars (\$5,000).

35 (e) The Franchise Tax Board shall not impose the penalties
36 authorized by subdivision (d) until either one of the following
37 has occurred:

38 (1) Commencing January 1, 2006, and continuing each year
39 thereafter, there is an appropriation in the Franchise Tax Board's

1 annual budget to fund the costs associated with the penalty
2 authorized by subdivision (d).

3 (2) (A) An agreement has been executed between the
4 California Tax Education Council and the Franchise Tax Board
5 that provides that an amount equal to all first year costs
6 associated with the penalty authorized by subdivision (d) shall be
7 received by the Franchise Tax Board. For purposes of this
8 subparagraph, first year costs include, but are not limited to, costs
9 associated with the development of processes or systems
10 changes, if necessary, and labor.

11 (B) An agreement has been executed between the California
12 Tax Education Council and the Franchise Tax Board that
13 provides that the annual costs incurred by the Franchise Tax
14 Board associated with the penalty authorized by subdivision (d)
15 shall be reimbursed by the California Tax Education Council to
16 the Franchise Tax Board.

17 (C) Pursuant to the agreement described in subparagraph (A),
18 the Franchise Tax Board has received an amount equal to the first
19 year costs described in that subparagraph.

20 SEC. 40. The Legislature finds and declares that the
21 amendments made to Sections 4982.26, 4986.71, and 4992.33 of
22 the Business and Professions Code made by Sections 20, 21, and
23 25 of this act do not constitute a change in, but are declaratory of,
24 existing law.